

the last surviving recipient of the Medal of Honor for acts performed during World War II, shall be permitted to lie in state in the rotunda of the United States Capitol if he or his next of kin so elects.

(b) **IMPLEMENTATION.**—The Architect of the Capitol, under the direction of the President pro tempore of the Senate and the Speaker of the House of Representatives, shall take the necessary steps to implement subsection (a).

**SA 4892.** Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill S. 1605, to designate the National Pulse Memorial located at 1912 South Orange Avenue in Orlando, Florida, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title V, add the following:

**PART 4—MILITARY JUSTICE IMPROVEMENT AND INCREASING PREVENTION**

**SEC. 539I. SHORT TITLE.**

This part may be cited as the “Military Justice Improvement and Increasing Prevention Act of 2021”.

**SEC. 539J. IMPROVEMENT OF DETERMINATIONS ON DISPOSITION OF CHARGES FOR CERTAIN OFFENSES UNDER UCMJ WITH AUTHORIZED MAXIMUM SENTENCE OF CONFINEMENT OF MORE THAN ONE YEAR.**

(a) **IMPROVEMENT OF DETERMINATIONS.**—

(1) **MILITARY DEPARTMENTS.**—With respect to charges under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), that allege an offense specified in subsection (b) and not excluded under subsection (c), the Secretary of Defense shall require the Secretaries of the military departments to provide as described in subsection (d) for the determinations as follows:

(A) Determinations under section 830 of such chapter (article 30 of the Uniform Code of Military Justice) on the referral of charges.

(B) Determinations under section 830 of such chapter (article 30 of the Uniform Code of Military Justice) on the disposition of charges.

(C) Determinations under section 834 of such chapter (article 34 of the Uniform Code of Military Justice) on the referral of charges.

(2) **HOMELAND SECURITY.**—With respect to charges under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), that allege an offense specified in subsection (b) and not excluded under subsection (c) against a member of the Coast Guard (when it is not operating as a service in the Navy), the Secretary of Homeland Security shall provide as described in subsection (d) for the determinations as follows:

(A) Determinations under section 830 of such chapter (article 30 of the Uniform Code of Military Justice) on the referral of charges.

(B) Determinations under section 830 of such chapter (article 30 of the Uniform Code of Military Justice) on the disposition of charges.

(C) Determinations under section 834 of such chapter (article 34 of the Uniform Code of Military Justice) on the referral of charges.

(3) **RULE OF CONSTRUCTION.**—This section shall not be construed to terminate or otherwise alter the authorities enumerated in any articles of the Uniform Code of Military Justice other than articles 30 and 34 (10 U.S.C. 830, 834).

(b) **COVERED OFFENSES.**—An offense specified in this subsection is an offense as follows:

(1)(A) Offenses under the following sections of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), for which the maximum punishment authorized under that chapter includes confinement for more than one year: sections 893a, 917a, 918, 919, 919a, 919b, 920, 920a, 920b, 920c, 921, 921a, 921b, 922, 924, 924a, 924b, 925, 926, 927, 928(b) and (c), 928a, 928b, 930, 931, 931a, 931b, 931c, 931d, 931e, 931f, 931g, and 932 (articles 93a, 117a, 118, 119, 119a, 119b, 120, 120a, 120b, 120c, 121, 121a, 121b, 122, 124, 124a, 124b, 125, 126, 127, 128(b) and (c), 128a, 128b, 130, 131, 131a, 131b, 131c, 131d, 131e, 131f, 131g, and 132, respectively, of the Uniform Code of Military Justice).

(B) The offenses of child pornography, negligent homicide, indecent conduct, indecent language communicated to any child under the age of 16 years, and pandering and prostitution, as punishable under the general punitive article in 934 of such title (article 134 of the Uniform Code of Military Justice).

(2) A conspiracy to commit an offense specified in paragraph (1) as punishable under section 881 of title 10, United States Code (article 81 of the Uniform Code of Military Justice).

(3) A solicitation to commit an offense specified in paragraph (1) as punishable under section 882 of title 10, United States Code (article 82 of the Uniform Code of Military Justice).

(4) An attempt to commit an offense specified in paragraph (1) as punishable under section 880 of title 10, United States Code (article 80 of the Uniform Code of Military Justice).

(c) **EXCLUDED OFFENSES.**—Subsection (a) does not apply to an offense as follows:

(1) An offense under sections 883 through 917 of title 10, United States Code (articles 83 through 117 of the Uniform Code of Military Justice), but not an offense under section 893a of such title (article 93a of the Uniform Code of Military Justice).

(2) An offense under section 922a, 923, 923a, or 928(a) of title 10, United States Code (articles 122a, 123, 123a, and 128(a) of the Uniform Code of Military Justice).

(3) An offense under section 933 or 934 of title 10, United States Code (articles 133 and 134 of the Uniform Code of Military Justice), but not the offense of child pornography, negligent homicide, indecent conduct, indecent language communicated to any child under the age of 16 years, or pandering and prostitution as punishable under the general punitive article in section 934 of such title (article 134 of the Uniform Code of Military Justice).

(4) A conspiracy to commit an offense specified in paragraphs (1) through (3) as punishable under section 881 of title 10, United States Code (article 81 of the Uniform Code of Military Justice).

(5) A solicitation to commit an offense specified in paragraphs (1) through (3) as punishable under section 882 of title 10, United States Code (article 82 of the Uniform Code of Military Justice).

(6) An attempt to commit an offense specified in paragraphs (1) through (3) as punishable under section 880 of title 10, United States Code (article 80 of the Uniform Code of Military Justice).

(d) **REQUIREMENTS AND LIMITATIONS.**—The disposition of charges covered by subsection (a) shall be subject to the following:

(1) The determination whether to cause charges to be preferred or refer such charges to a court-martial for trial, as applicable, shall be made by a commissioned officer of the Armed Forces designated as a court-martial convening authority in accordance with regulations prescribed for purposes of this subsection from among commissioned offi-

cers of the Armed Forces in grade O-6 or higher who—

(A) are available for detail as trial counsel under section 827 of title 10, United States Code (article 27 of the Uniform Code of Military Justice);

(B) have significant experience in trials by general or special court-martial; and

(C) are outside the chain of command of the member subject to such charges.

(2) Upon a determination under paragraph (1) to refer charges to a court-martial for trial, the officer making that determination shall determine whether to refer such charges for trial by a general court-martial convened under section 822 of title 10, United States Code (article 22 of the Uniform Code of Military Justice), or a special court-martial convened under section 823 of title 10, United States Code (article 23 of the Uniform Code of Military Justice).

(3) A determination under paragraph (1) to cause charges to be preferred or refer charges to a court-martial for trial, as applicable, shall cover all known offenses, including lesser included offenses.

(4) The determination to cause charges to be preferred or refer charges to a court-martial for trial, as applicable, under paragraph (1), and the type of court-martial to which to refer under paragraph (2), shall be binding on any applicable convening authority for the referral of such charges.

(5) The actions of an officer described in paragraph (1) in determining under that paragraph whether or not to cause charges to be preferred or refer charges to a court-martial for trial, as applicable, shall be free of unlawful or unauthorized influence or coercion.

(6) The determination under paragraph (1) not to refer charges to a general or special court-martial for trial shall not operate to terminate or otherwise alter the authority of commanding officers to refer charges for trial by special court-martial under section 823 of title 10, United States Code (article 23 of the Uniform Code of Military Justice) or summary court-martial convened under section 824 of title 10, United States Code (article 24 of the Uniform Code of Military Justice), or to impose non-judicial punishment in connection with the conduct covered by such charges as authorized by section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice).

(7) The determination under paragraph (1) to refer charges to a general or special court-martial shall not be subject to section 834 of title 10, United States Code (article 34 of the Uniform Code of Military Justice), provided that the officer making the determination determines that—

(A) the specification alleges an offense under the Uniform Code of Military Justice;

(B) there is probable cause to believe that the accused committed the offense charged; and

(C) a court-martial would have jurisdiction over the accused and the offense.

(8) The convening authority shall not concurrently or subsequently serve as counsel or supervisory counsel in the same case in the case in which he or she served as the convening authority.

(e) **CONSTRUCTION WITH CHARGES ON OTHER OFFENSES.**—Nothing in this section shall be construed to alter or affect the referral, disposition, or referral authority of charges under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), that allege an offense for which the maximum punishment authorized under that chapter includes confinement for one year or less, except for the offenses of child pornography, negligent homicide, indecent conduct, indecent language communicated to any

child under the age of 16 years, and pandering and prostitution as punishable under the general punitive article in section 934 of such title (article 134 of the Uniform Code of Military Justice).

(f) **POLICIES AND PROCEDURES.**—

(1) **IN GENERAL.**—The Secretaries of the military departments and the Secretary of Homeland Security (with respect to the Coast Guard when it is not operating as a service in the Navy) shall revise policies and procedures as necessary to comply with this section.

(2) **UNIFORMITY.**—The General Counsel of the Department of Defense and the General Counsel of the Department of Homeland Security shall jointly review the policies and procedures revised under this subsection in order to ensure that any lack of uniformity in policies and procedures, as so revised, among the military departments and the Department of Homeland Security does not render unconstitutional any policy or procedure, as so revised.

(g) **MANUAL FOR COURTS-MARTIAL.**—The Secretary of Defense shall recommend such changes to the Manual for Courts-Martial as are necessary to ensure compliance with this section.

(h) **IMPROVED SPECIALIZATION OF CRIMINAL INVESTIGATORS.**—The Secretary of Defense shall revise policies and procedures as necessary to improve specialization of criminal investigators to help increase the efficiency and effectiveness of sexual assault and domestic violence investigations.

**SEC. 539K. MODIFICATION OF OFFICERS AUTHORIZED TO CONVENE GENERAL AND SPECIAL COURTS-MARTIAL FOR CERTAIN OFFENSES UNDER UCMJ WITH AUTHORIZED MAXIMUM SENTENCE OF CONFINEMENT OF MORE THAN ONE YEAR.**

(a) **IN GENERAL.**—Subsection (a) of section 822 of title 10, United States Code (article 22 of the Uniform Code of Military Justice), is amended—

(1) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(2) by inserting after paragraph (7) the following new paragraph (8):

“(8) with respect to offenses to which section 539J(a) of the Military Justice Improvement and Increasing Prevention Act of 2021 applies, the officers in the offices established pursuant to section 539K(c) of that Act or officers in the grade of O-6 or higher who are assigned such responsibility by the Secretaries of the military departments and the Secretary of Homeland Security (with respect to the Coast Guard when it is not operating as a service in the Navy).”

(b) **NO EXERCISE BY OFFICERS IN CHAIN OF COMMAND OF ACCUSED OR VICTIM.**—Such section (article) is further amended by adding at the end the following new subsection:

“(c) An officer specified in subsection (a)(8) may not convene a court-martial under this section if the officer is in the chain of command of the accused or the victim.”

(c) **OFFICES OF CHIEFS OF STAFF ON COURTS-MARTIAL.**—

(1) **OFFICES REQUIRED.**—Each Secretary of a military department and the Secretary of Homeland Security (with respect to the Coast Guard when it is not operating as a service in the Navy) specified in paragraph (8) of section 822(a) of title 10, United States Code (article 22(a) of the Uniform Code of Military Justice), as amended by subsection (a), shall establish an office to do the following:

(A) To convene general and special courts-martial under sections 822 and 823 of title 10, United States Code (articles 22 and 23 of the Uniform Code of Military Justice), pursuant to paragraph (8) of section 822(a) of title 10, United States Code (article 22(a) of the Uni-

form Code of Military Justice), as so amended, with respect to offenses to which section 539J(a) applies.

(B) To detail under section 825 of title 10, United States Code (article 25 of the Uniform Code of Military Justice), members of courts-martial convened as described in subparagraph (A).

(2) **PERSONNEL.**—The personnel of each office established under paragraph (1) shall consist of such members of the Armed Forces and civilian personnel of the Department of Defense, or such members of the Coast Guard or civilian personnel of the Department of Homeland Security, as may be detailed or assigned to the office by the Secretaries of the military departments and the Secretary of Homeland Security (with respect to the Coast Guard when it is not operating as a service in the Navy). The members and personnel so detailed or assigned, as the case may be, shall be detailed or assigned from personnel billets in existence as of the effective date for this Act specified in section 539R.

**SEC. 539L. DISCHARGE USING OTHERWISE AUTHORIZED PERSONNEL AND RESOURCES.**

(a) **IN GENERAL.**—The Secretaries of the military departments and the Secretary of Homeland Security (with respect to the Coast Guard when it is not operating as a service in the Navy) shall carry out sections 539J and 539K using personnel, funds, and resources otherwise authorized by law.

(b) **NO AUTHORIZATION OF ADDITIONAL PERSONNEL OR RESOURCES.**—Sections 539J and 539K shall not be construed as authorizations for personnel, personnel billets, or funds for the discharge of the requirements in such sections.

**SEC. 539M. MONITORING AND ASSESSMENT OF MODIFICATION OF AUTHORITIES BY DEFENSE ADVISORY COMMITTEE ON INVESTIGATION, PROSECUTION, AND DEFENSE OF SEXUAL ASSAULT IN THE ARMED FORCES.**

Section 546(c) of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (10 U.S.C. 1561 note) is amended—

(1) in paragraph (1)—

(A) by striking “on the investigation” and inserting “on the following:

“(A) The investigation”; and

(B) by adding at the end the following new subparagraph:

“(B) The implementation and efficacy of sections 539J through 539L of the Military Justice Improvement and Increasing Prevention Act of 2021 and the amendments made by such sections.”; and

(2) in paragraph (2), by striking “paragraph (1)” and inserting “paragraph (1)(A)”.

**SEC. 539N. LIMITATION ON MODIFICATIONS TO SEXUAL ASSAULT REPORTING PROCEDURES.**

(a) **IN GENERAL.**—The Secretary of Defense may not amend section 4 of enclosure 4 of Department of Defense Instruction (DoDI) 6495.02, relating to Sexual Assault Prevention and Response (SAPR) Program Procedures, or otherwise prescribe any regulations or guidance relating to the treatment and handling of unrestricted and restricted reports of sexual assault, until 30 days after notifying the congressional defense committees of the proposed amendment or modification.

(b) **CONGRESSIONAL DEFENSE COMMITTEES DEFINED.**—In this section, the term “congressional defense committees” has the meaning given the term in section 101(a) of title 10, United States Code.

**SEC. 539O. PROFESSIONALIZATION OF MILITARY PROSECUTORS.**

(a) **IN GENERAL.**—The Secretary of Defense shall increase enhanced and specialized

training to certain prosecutors on the proper conduct, presentation, and handling of sexual assault and domestic violence cases.

(b) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the program implemented under subsection (a).

**SEC. 539P. INCREASED TRAINING AND EDUCATION ON MILITARY SEXUAL ASSAULT.**

(a) **UNIFORMED OFFICERS AND SENIOR ENLISTED LEADERS.**—

(1) **UNIFORMED OFFICERS.**—All uniformed officers of the military services shall be required within 2 years of the date of the enactment of this Act to complete training on military sexual assault prevention equivalent to that provided to Sexual Assault Prevention and Response Victim Advocates before those officers may be considered for promotion to a grade at or above O-5. A portion of this training shall be in-person, facilitated training.

(2) **ENLISTED LEADERS.**—All senior enlisted leaders of the military services will be required within 2 years of the date of the enactment of this Act to complete a training on military sexual assault prevention equivalent to that provided to the Sexual Assault Prevention and Response Victim Advocates before enlisted service members may be considered for promotion to a grade at or above E-9. A portion of this training shall be in-person, facilitated training.

(b) **OFFICER CANDIDATES AND ROTC.**—

(1) **IN GENERAL.**—The United States Army Cadet Command, the Naval Education and Training Command, the Air Education and Training Command, and the Coast Guard Recruiting Command shall carry out a program for increasing training on the prevention of military sexual assault within cadet ranks. A portion of this training shall be in-person, facilitated training.

(2) **REPORT ON DEVELOPMENT OF PLAN.**—Not later than 180 days after the date of the enactment of this Act, the United States Army Cadet Command, the Naval Education and Training Command, the Air Education and Training Command, and the Coast Guard Recruiting Command shall submit to the congressional defense committees a report on the development of the program required under paragraph (1) and a plan for execution.

(3) **REPORT ON IMPLEMENTATION.**—Not later than 2 years after the date of the enactment of this Act, the United States Army Cadet Command, the Naval Education and Training Command, the Air Education and Training Command, and the Coast Guard Recruiting Command shall submit to the congressional defense committees a report on the implementation of the program required under paragraph (1).

(c) **MILITARY SERVICE ACADEMIES.**—

(1) **IN GENERAL.**—The Superintendents of the military service academies shall carry out additional military sexual assault prevention training and education at the academies. A portion of this training shall be in-person, facilitated training.

(2) **REPORT.**—The Secretary of Defense, in consultation with the Superintendents of the military service academies, shall submit a report to the congressional defense committees describing the additional training and education implemented pursuant to paragraph (1).

**SEC. 539Q. INCREASING THE PHYSICAL SECURITY OF MILITARY INSTALLATIONS.**

(a) **SURVEY.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall conduct a survey of all lodging and living spaces on military installations to identify, replace, or repair locking mechanisms on points of entry, identify areas of installation of closed-circuit

television (CCTV) security cameras, and other passive security measures as necessary to increase the prevention of crimes, including sexual assault, on military installations.

(b) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the results of the survey conducted under subsection (a).

(c) **PROGRAM.**—Based on the results of the survey conducted under subsection (a), the Secretary of Defense shall carry out a program for increasing the security of all lodging and living spaces on military installations, including replacing or repairing locking mechanisms on points of entry, installation of CCTV security cameras, and other passive security measures as necessary to increase the prevention of crimes, including sexual assault, on military installations.

#### **SEC. 539R. EFFECTIVE DATE AND APPLICABILITY.**

(a) **EFFECTIVE DATE AND APPLICABILITY.**—This part and the amendments made by this part shall take effect 180 days after the date of the enactment of this Act, and shall apply with respect to any allegation of charges of an offense specified in subsection (b) of section 539J, and not excluded under subsection (c) of section 539J, which offense occurs on or after such effective date.

(b) **REVISIONS OF POLICIES AND PROCEDURES.**—Any revision of policies and procedures required of the military departments or the Department of Homeland Security as a result of this part and the amendments made by this part shall be completed so as to come into effect together with the coming into effect of this part and the amendments made by this part in accordance with subsection (a).

#### **AUTHORITY FOR COMMITTEES TO MEET**

Mrs. MURRAY. Mr. President, I have 4 requests for committees to meet during today's session of the Senate. They have the approval of the Majority and Minority Leaders.

Pursuant to rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committees are authorized to meet during today's session of the Senate:

#### **COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY**

The Committee on Agriculture, Nutrition, and Forestry is authorized to meet during the session of the Senate on Thursday, December 9, 2021, at 11 a.m., to conduct a business meeting.

#### **COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS**

The Committee on Homeland Security and Governmental Affairs is authorized to meet during the session of the Senate on Thursday, December 9, 2021, at 10:15 a.m., to conduct a hearing.

#### **COMMITTEE ON THE JUDICIARY**

The Committee on the Judiciary is authorized to meet during the session of the Senate on Thursday, December 9, 2021, at 9 a.m., to conduct an executive business meeting.

#### **SUBCOMMITTEE ON COMMUNICATIONS, MEDIA, AND BROADBAND**

The Subcommittee on Communications, Media, and Broadband of the Committee on Commerce, Science, and Transportation is authorized to meet during the session of the Senate on Thursday, December 9, 2021, at 10:45 a.m., to conduct a hearing.

#### **ORDERS FOR MONDAY, DECEMBER 13, 2021**

Mr. SCHUMER. Finally, Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 3 p.m., Monday, December 13; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and morning business be closed; that upon conclusion of morning business, the Senate proceed to executive session to resume consideration of the Elliott nomination; further, that if any nominations are confirmed during Monday's session, the motions to reconsider be considered

made and laid upon the table and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, for the information of Senators, there will be a rollcall vote at 5:30 p.m. on the confirmation of the Koh nomination.

#### **ADJOURNMENT UNTIL MONDAY, DECEMBER 13, 2021, AT 3 P.M.**

Mr. SCHUMER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 7:46 p.m., adjourned until Monday, December 13, 2021, at 3 p.m.

#### **DISCHARGED NOMINATION**

The Senate Committee on Homeland Security and Governmental Affairs was discharged from further consideration of the following nomination under the authority of the order of the Senate of 01/07/2009 and the nomination was placed on the Executive Calendar:

\*CHRISTI A. GRIMM, OF COLORADO, TO BE INSPECTOR GENERAL, DEPARTMENT OF HEALTH AND HUMAN SERVICES.

\*Nominee has committed to respond to requests to appear and testify before any duly constituted committee of the Senate.

#### **CONFIRMATIONS**

Executive nominations confirmed by the Senate December 9, 2021:

#### **CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD**

STEPHEN A. OWENS, OF ARIZONA, TO BE A MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD FOR A TERM OF FIVE YEARS.

SYLVIA E. JOHNSON, OF NORTH CAROLINA, TO BE A MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD FOR A TERM OF FIVE YEARS.